

Landlord / Tenant

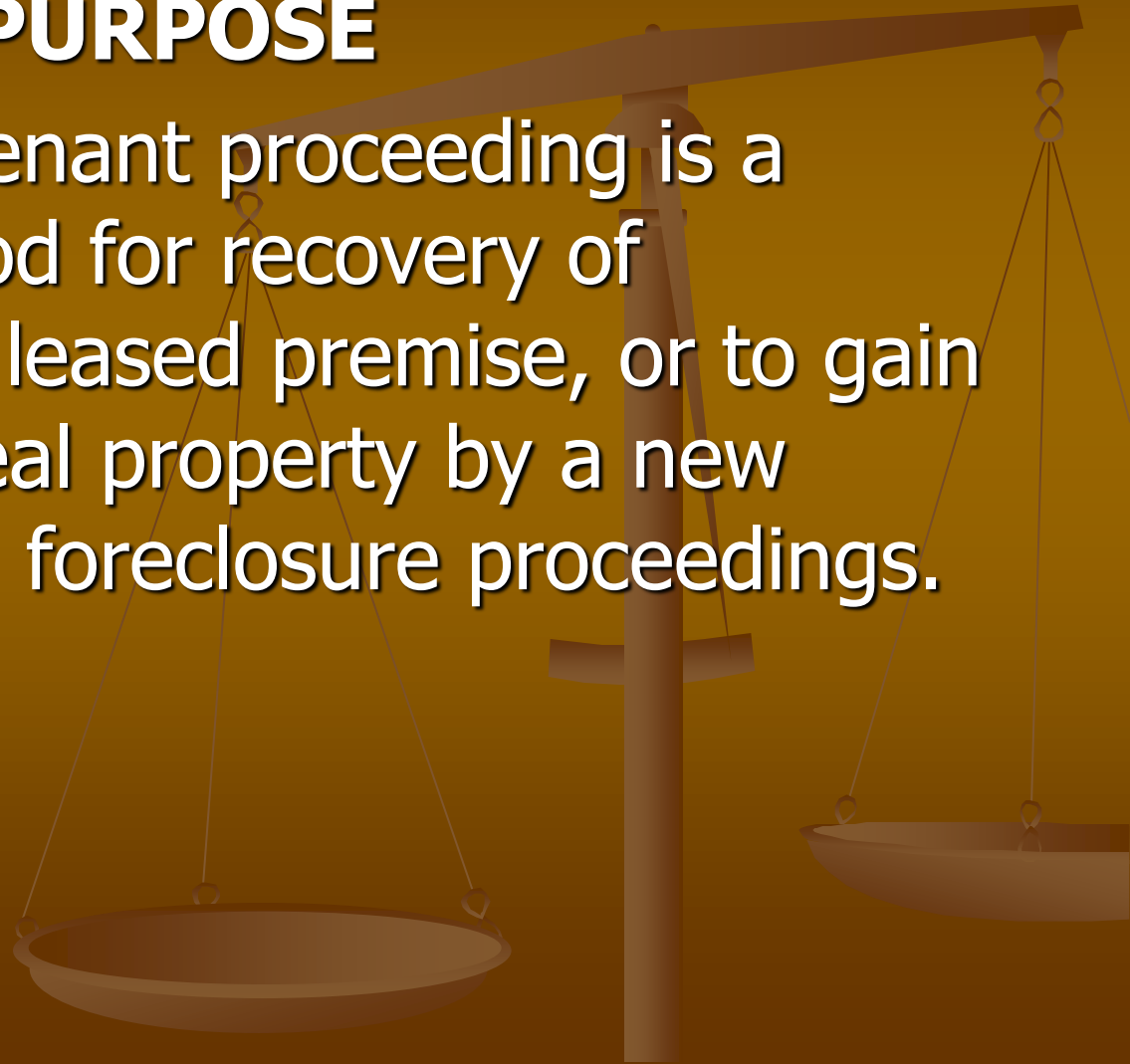


Commissioner Patrick Singer

Landlord / Tenant

PURPOSE

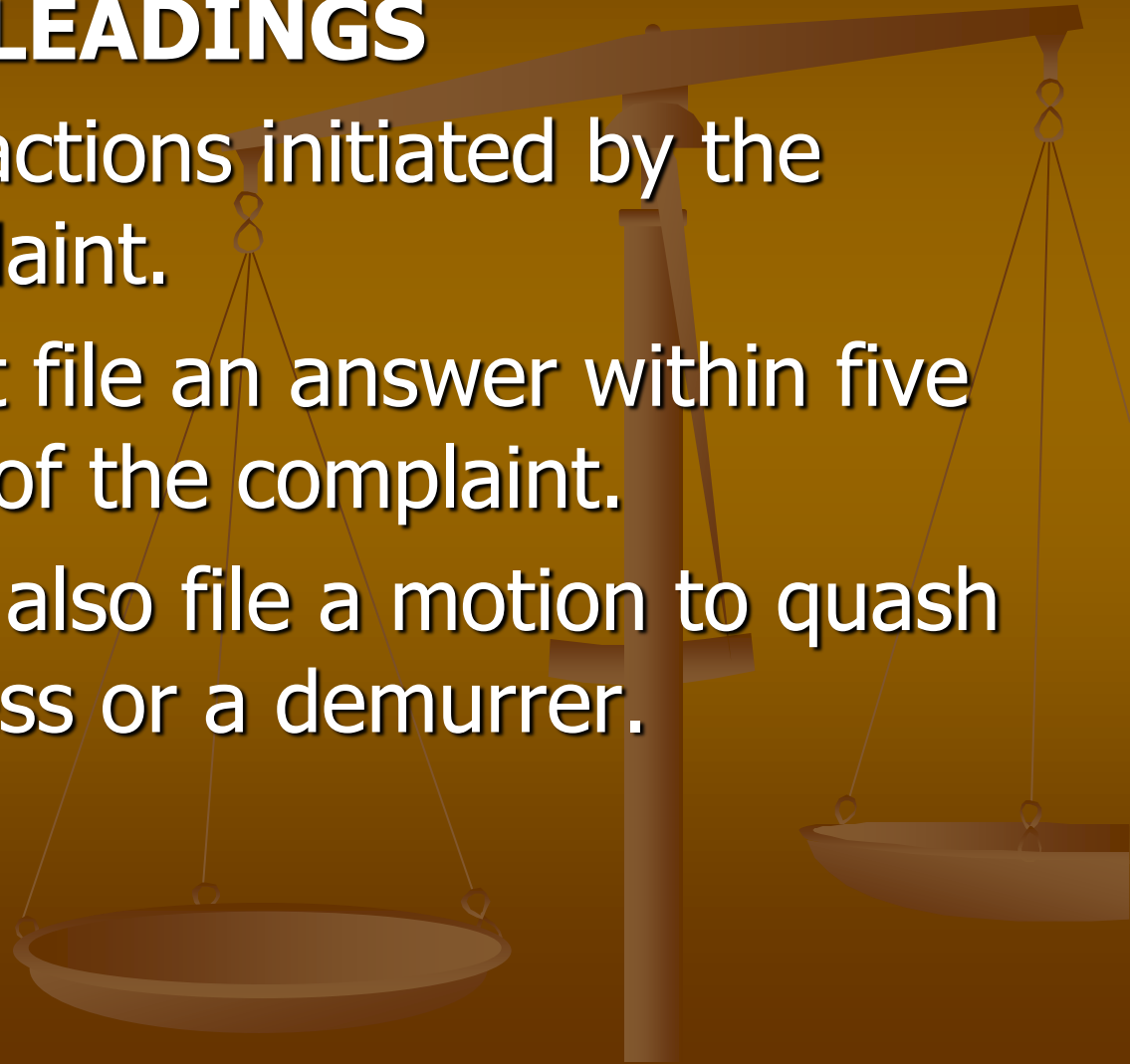
A Landlord / Tenant proceeding is a summary method for recovery of possession of a leased premise, or to gain possession of real property by a new owner following foreclosure proceedings.



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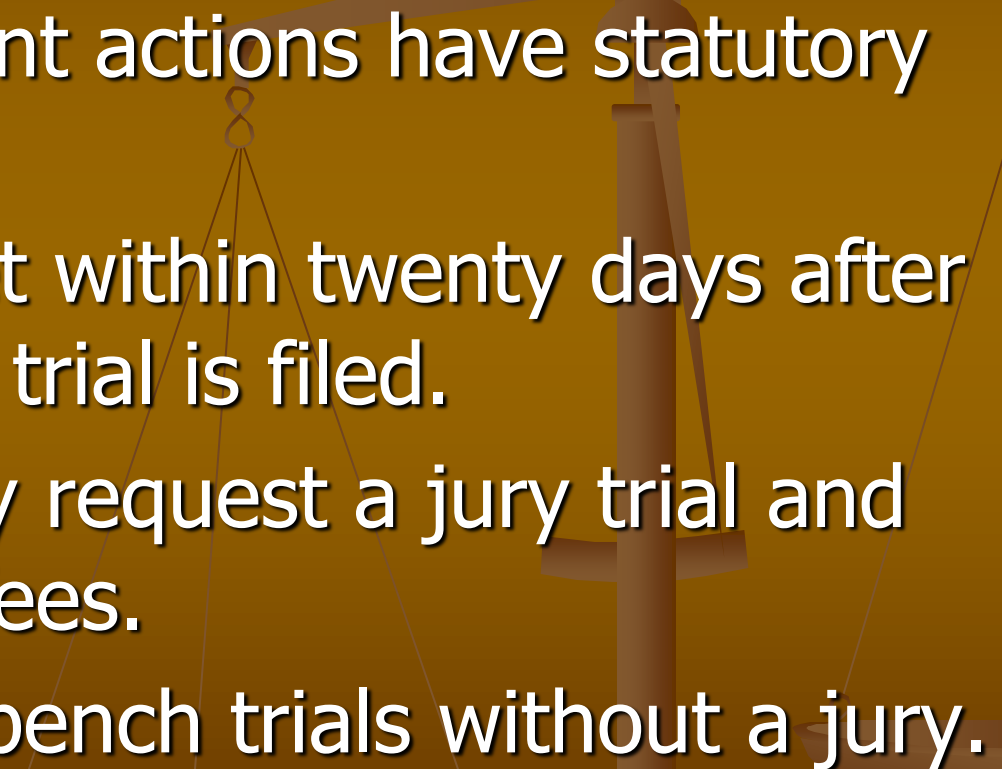
PLEADINGS

- These are civil actions initiated by the filing of a complaint.
- Defendant must file an answer within five days of service of the complaint.
- Defendant may also file a motion to quash service of process or a demurrer.



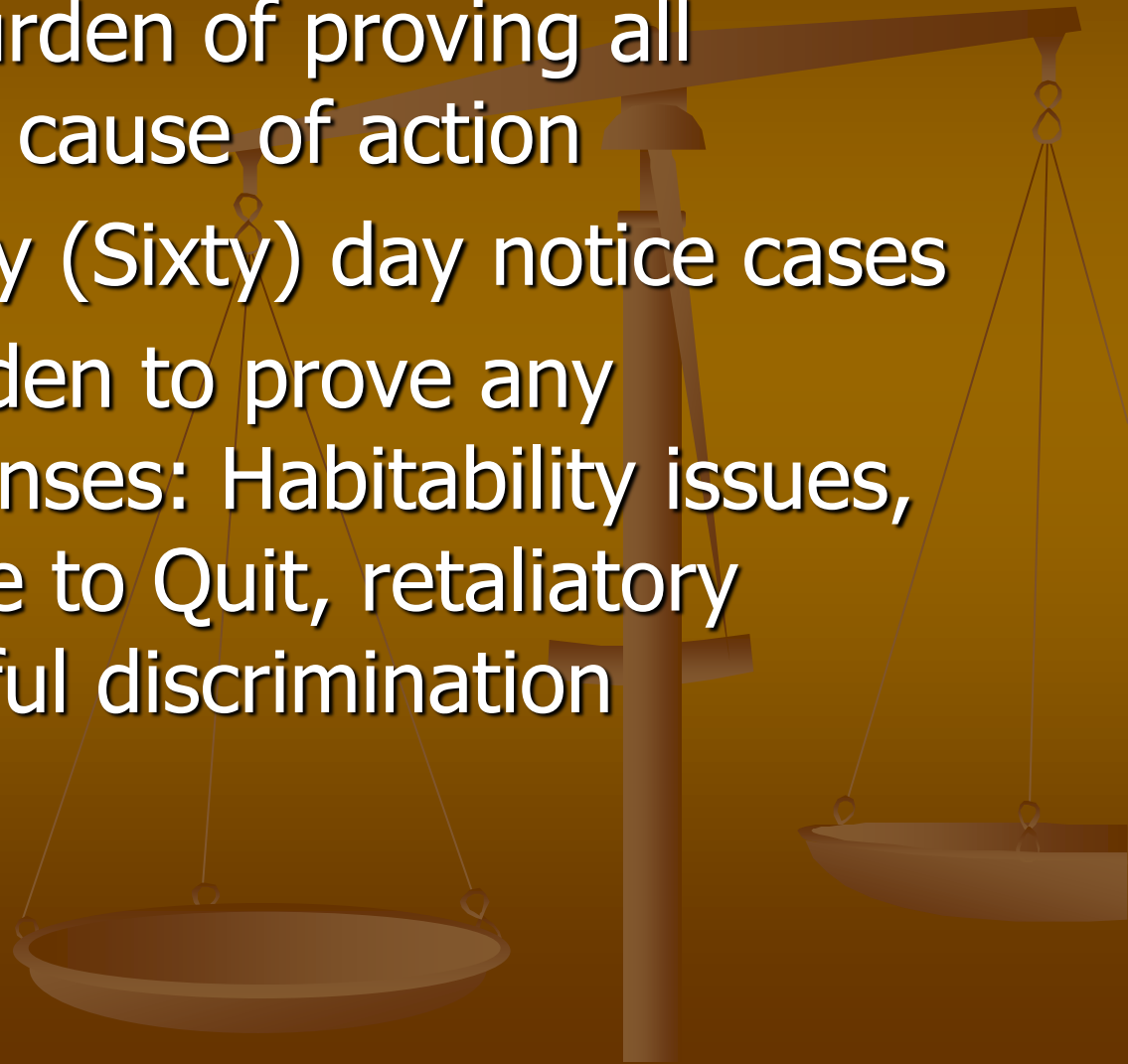
Landlord / Tenant

TRIAL

- Landlord / Tenant actions have statutory preference.
 - Trial must be set within twenty days after a request to set trial is filed.
 - Either party may request a jury trial and must post jury fees.
 - Most cases are bench trials without a jury.
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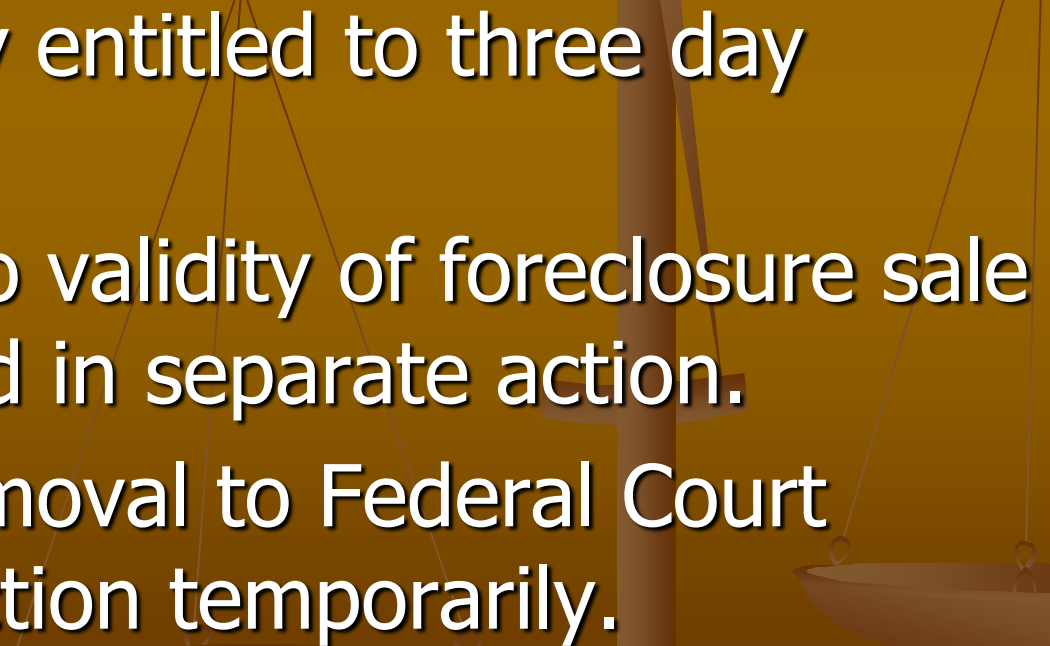
Landlord / Tenant

- Landlord has burden of proving all elements of the cause of action
- Three and Thirty (Sixty) day notice cases
- Tenant has burden to prove any affirmative defenses: Habitability issues, Waiver of Notice to Quit, retaliatory eviction, Unlawful discrimination



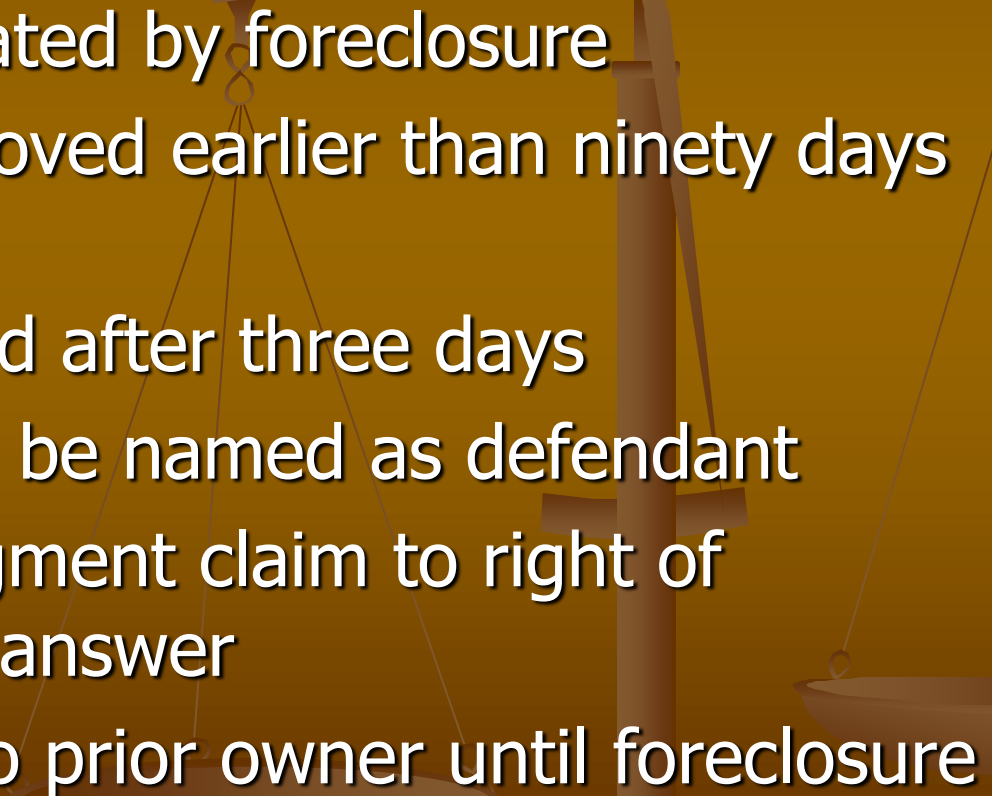
Landlord / Tenant

POST FORECLOSURE LANDLORD/TENANT CASES

- Prior owner only entitled to three day notice.
 - Issues related to validity of foreclosure sale must be litigated in separate action.
 - Bankruptcy, Removal to Federal Court suspends the action temporarily.
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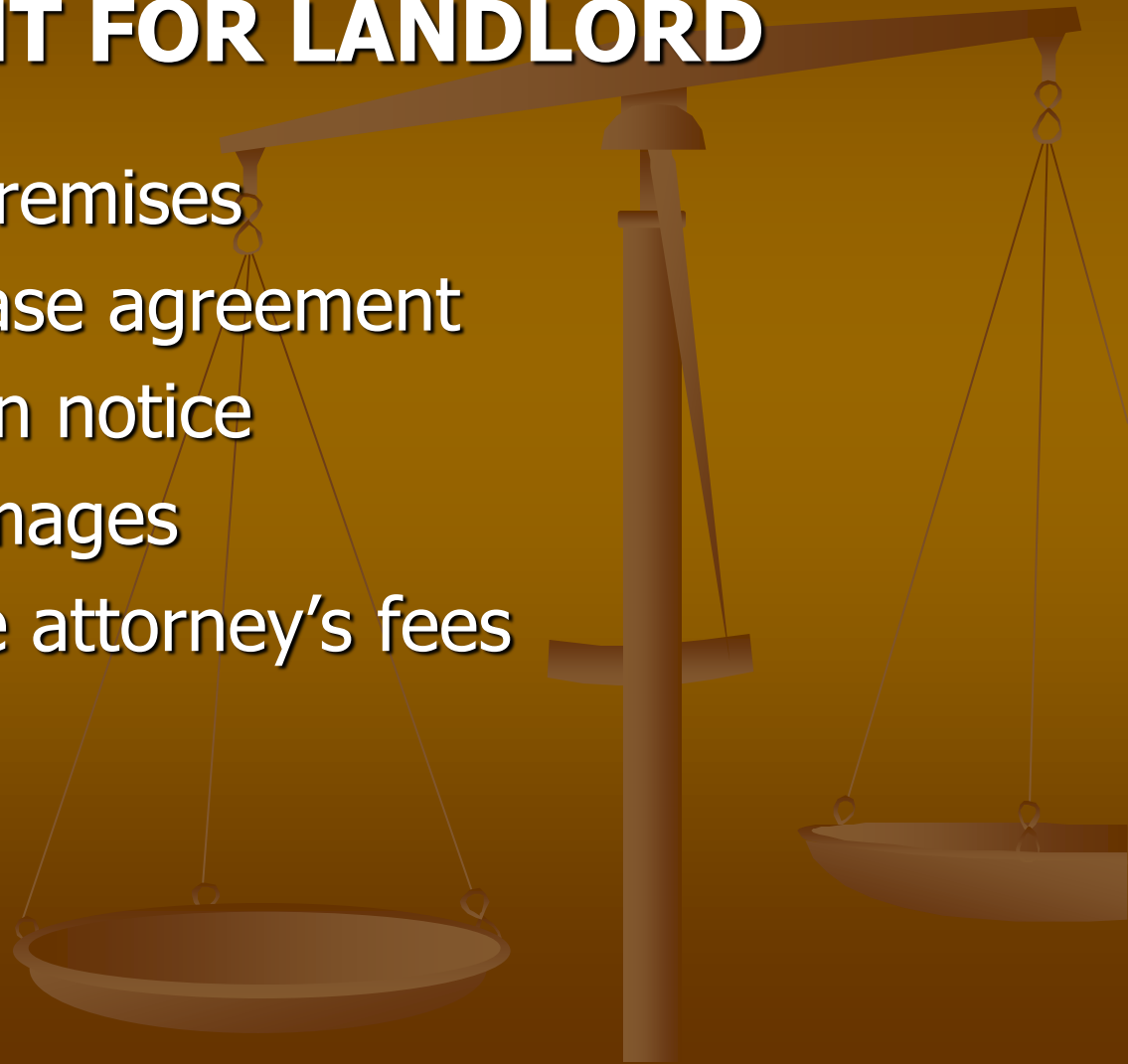
BONA FIDE TENANT OF PRIOR OWNER

- Lease is terminated by foreclosure
 - Can not be removed earlier than ninety days after notice
 - Case can be filed after three days
 - May or may not be named as defendant
 - May file prejudgment claim to right of possession and answer
 - Must pay rent to prior owner until foreclosure
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Landlord / Tenant

JUDGMENT FOR LANDLORD

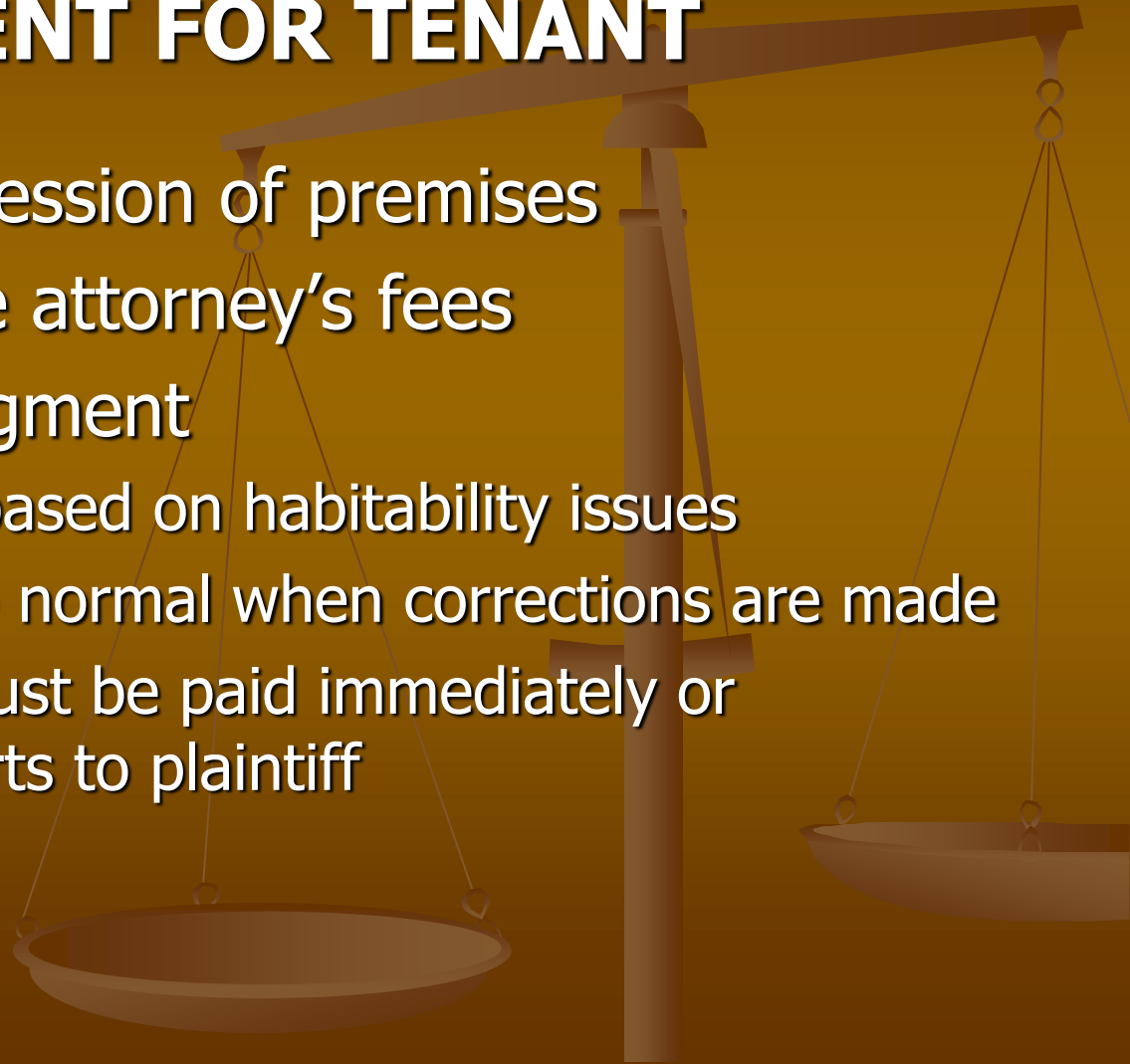
- Possession of premises
- Forfeiture of lease agreement
- Past due rent on notice
- Daily rental damages
- Costs to include attorney's fees



Landlord / Tenant

JUDGMENT FOR TENANT

- Continued possession of premises
- Costs to include attorney's fees
- Conditional judgment
 - Reduced rent based on habitability issues
 - Rent returns to normal when corrections are made
 - Reduce rent must be paid immediately or judgment reverts to plaintiff



Landlord / Tenant

ENFORCEMENT OF JUDGMENT

- Writ of Possession issued on request of plaintiff with valid judgment
 - Levying officer (Sheriff's office or Police department) posts property and gives five day notice
 - If tenant does not vacate, levying officer forcibly removes tenant and restores property to plaintiff
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